

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DAVID SIDOO, *et al.*,

Defendants.

Case No. 19-CR-10080-NMG
(Leave to file granted 4/1/2020)

ORAL ARGUMENT REQUESTED

**DEFENDANTS' MOTION TO SUPPRESS EVIDENCE
DERIVED FROM THE GOVERNMENT'S FOUR WIRETAPS**

Defendants Robert Zangrillo, Amy Colburn, John Wilson, Elizabeth Kimmel, Marci Palatella, I-Hsin "Joey" Chen, and William E. McGlashan, Jr. (collectively, "Defendants") hereby move to suppress wiretap evidence pursuant to 18 U.S.C. §§ 2515 and 2518(10) or, in the alternative, for an evidentiary hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978). Specifically, Defendants seek the suppression of evidence derived from the Government's wiretapping of Rick Singer's phone and e-mail accounts. As grounds for this motion, Defendants state that the Government failed to meet its statutory obligation of necessity in each of its wiretap applications and any evidence derived therefrom must therefore be suppressed. Further, the Government either dismissed or omitted material facts regarding the necessity of the wiretaps in each of its wiretap applications thereby warranting suppression of any evidence derived therefrom under *Franks v. Delaware*.

In its initial wiretap application and subsequent three renewal applications, the Government failed to meet its required showing that beyond the use of traditional investigative techniques, wiretaps were necessary to further its investigation. In fact, at the time of its wiretap applications, the Government's investigation was proceeding without impediment through traditional investigative techniques, such as the collection of emails via search warrant. Apart

from wiretaps, the Government could have pursued other traditional investigative techniques, such as interviews with cooperating witnesses. As such, the use of wiretaps was not a necessity as required by 18 U.S.C. § 2518 and any evidence derived therefrom must be suppressed. Additionally, in each of its four wiretap affidavits, the Government either dismissed or omitted material facts regarding its collection of evidence through traditional investigative tactics or its ability to do so. These representations were either intentionally or recklessly false, thus warranting suppression under *Franks v. Delaware*.

The grounds for this motion are set forth in further detail in the Defendants' accompanying memorandum, which is incorporated herein by reference.

WHEREFORE, for the reasons stated in this motion and in its accompanying memorandum in support, the Defendants respectfully request that this Court issue an order suppressing evidence derived from the Government's wiretaps of Singer's phone, or in the alternative order an evidentiary hearing pursuant to *Franks v. Delaware*.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Defendants hereby respectfully request that the Court hear oral argument on this motion, as they believe it will assist the Court in its consideration of this motion.

Dated: April 1, 2020

Respectfully submitted,

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RULE 7.1 AND 116.3(f) CERTIFICATION

I hereby certify that I conferred with Eric Rosen, counsel for the Government, on March 30, 2020 regarding this motion, and Rosen, on behalf of the government, stated that he opposes the motion.

/s/ Jack W. Pirozzolo
Jack W. Pirozzolo

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2020, I filed this document through the CM/ECF system and a copy will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Jack W. Pirozzolo
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